

REMARKS

Reconsideration of the application in light of the amendments and the following remarks is respectfully requested.

Status of the Claims

Claims 2-21, 25-29 and 32-35 are pending. Claims 33-35 have been added. Claims 2 and 25 have been amended. No new matter is added.

Rejection Under 35 U.S.C. § 101

Claims 2-21 and 32 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner contends that the claimed method consists solely of the manipulation of an abstract idea and is not concrete or tangible. The Examiner states that the body of the claim must recite technology.

Applicants submit that a process claim is statutory if it “produces a concrete, tangible and useful result; *i.e.*, the method recites a step or act of producing something that is concrete, tangible and useful.” (*See* MPEP, page 2100-18.) Applicants submit that there is no requirement that the “body of the claim must recite technology” as stated by the Examiner. Independent method claim 2, as examined, does recite statutory subject matter.

In the interest of furthering prosecution and obtaining an allowance, independent claim 2 has been amended to clearly include technology. Additionally, claim 2 has been amended to include the steps of “associating limits with at least one health statistic received from the user,” and “notifying a user’s physician, with a message sent from the computer, to contact the user when the limits are exceeded by the health statistic”, which Applicants submit is a concrete, tangible, and useful result.

Claims 3-21 and 32-34 depend from claim 2. Accordingly, claims 2-21 and 32-34 are directed to statutory processes. Reconsideration and withdrawal of the rejection is requested.

Rejection Under 35 U.S.C. § 102

Claims 2-21 and 32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,832,448 to Brown.

The Examiner contends that Brown discloses a method for compiling health information performed by a computer controlled apparatus by establishing a database which receives a health statistic of the user, and which determines the health status of the user from the health statistic.

Applicants submit that Brown discloses a system for monitoring a group of patients having a chronic disease or ongoing health condition. Brown discloses collecting from each patient a set of measurements of a control parameter of the health condition. Brown discloses calculating a control value for each patient from the patient’s set of measurements. The control value is a mean

value of the control parameter values recorded by the patient over a specified time frame.

(Brown, column 5, line 65 through column 6, line 20.)

Amended claim 2 is directed to a method of compiling health information and recites “storing a plurality of health statuses of a plurality of users,” receiving “data corresponding to a health statistic of the user,” and “analyzing the health statistic to determine a health status from the health statistic, wherein the analyzing step includes comparing data received from the health monitoring device and statistics derived from analysis of the plurality of health statuses.” In contrast, Brown merely discloses calculating a mean value for each patient from the patient’s own set of measurements, without comparison to statistics derived from health statuses of other users.

In response to Applicants’ previous remarks on this issue, the Examiner refers to Brown, column 2, lines 10-20, as disclosing calculating a mean value for each patient from the patient’s own measurements. (Detailed Action, page 5.) However, Applicants respectfully submit that there is no support for the Examiner’s position in that portion of Brown relied on by the Examiner.

Additionally, amended claim 2 recites “associating limits with at least one health statistic received from the user,” and “notifying a user’s physician, with a message sent from the computer, to contact the user when the limits are exceeded by the health statistic.” Support for this amendment can be found in the Specification at page 14, lines 8-20. Brown does not disclose, nor suggest, these features of amended claim 2.

Thus, Applicants submit that Brown does not disclose each and every element of amended claim 2. Therefore, Brown does not anticipate claim 2. Claims 3-21 and 32 depend from claim 2, and Applicants submit that claims 3-21 and 32 are patentable over Brown for at least the same reasons as claim 2. Applicants request withdrawal and reconsideration of the rejection.

Claims 25-29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Brown. Claims 25-29 also stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,966,692 to Langer et al. (“Langer”).

The Examiner contends that either Brown or Langer disclose all the features of claim 25. Applicants respectfully disagree. As noted above, Brown merely discloses remote monitoring devices for collecting data from each patient. (Brown, column 9, line 41.) Langer discloses a system for monitoring the heart of a patient comprised of a remote station having means for generating an electrocardiogram of the patient, means for detecting predetermined cardiological events in the patient in communication with the generating means and a transmitter for transmitting the electrocardiogram to a central station. (Langer, column 1, lines 35-49.)

Amended claim 25 is directed to a method of submitting acoustical cardiovascular data to a central database and recites “measuring the cardiovascular signal with the cardiovascular monitoring device while a startup routine performed by the computer is ongoing” and “receiving, at the computer after the startup routine, at least a portion of the detected cardiovascular signal of the user.” (emphasis added) In contrast, neither Brown nor Langer disclose measuring data from a patient while the computer startup routine is being performed.

Applicants acknowledge that a “startup routine” is inherent in that all computers begin a startup routine when turned on. However, what is not disclosed, or suggested, in Brown or Langer is a method that measures the cardiovascular signal while the startup routine is ongoing.

Additionally, amended claim 25 recites “associating limits with the data based on the received cardiovascular signal,” and “notifying a user’s physician, with a message sent from the computer, to contact the user when the limits are exceeded by the data.” Neither Brown nor Langer disclose or suggest these features of claim 25.

Thus, neither Brown nor Langer disclose each and every feature of amended claim 25. Therefore, neither Brown nor Langer anticipates amended claim 25. Claims 26-29 and 35 depend from claim 25, and Applicants submit that claims 26-29 and 35 are patentable over either Brown or Langer for at least the same reasons as claim 25.

CONCLUSION

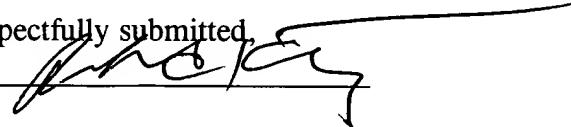
Each and every point raised in the Office Action dated April 6, 2005 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 2-21, 25-29 and 32-35 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

By



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